

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS**CALIFORNIA CODE OF REGULATIONS**

**TITLE 8: Chapter 4, Subchapter 4, Article 24, Section 1670
of the Construction Safety Orders**

Fall Arrest Free Fall Distance**SUMMARY**

This rulemaking action is being initiated at the request of the Division of Occupational Safety and Health (Division). The Division submitted a Form 9, Request for New, or Change in Existing Safety Order, dated March 23, 2004, recommending that the maximum free fall distance in Section 1670(b)(11)(B) of the Construction Safety Orders (CSO) for fall arrest systems be amended from 4 feet to 6 feet. CSO Section 1670(b)(11)(B) requires in part that personal fall arrest systems, when stopping a fall, be rigged such that an employee cannot free fall more than 4 feet nor contact any lower level. The Division noted that this 4-foot maximum personal fall arrest free fall distance is inconsistent with the Federal OSHA counterpart standard contained in 29 Code of Federal Regulations (CFR) 1926.502(d)(16)(iii), which permits a maximum free fall of 6 feet, and with other existing Title 8 safety orders. Fall arrest systems outlined in both Section 3648 of Article 24 of the General Industry Safety Orders, and Section 2940.7 of Article 36 in the Electrical Safety Orders, also permit a maximum free fall distance of 6 feet.

The existing 4-foot free fall distance is problematic in that there are situations, depending on where the lanyard can be tied in, whereby an employee must resort to crawling on the working surface in order to maintain this maximum free fall distance because the lanyard is not long enough to allow the employee to stand upright. The Division notes that the more important issues pertaining to a free fall are that the employee does not contact any lower level and that the maximum arresting force on an employee be limited to 1,800 pounds when using a harness. Both of these existing elements are maintained in this proposal.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**Section 1670(b)**

Existing Section 1670 outlines the specifications for personal fall arrest systems, personal fall restraint systems, and positioning devices required for employees whose work exposes them to falling in excess of 7 ½ feet from the perimeter of a structure, unprotected sides and ledges, leading edges, through shaftways and openings, sloped roof surfaces steeper than 7:12, or other

sloped surfaces steeper than 40 degrees not otherwise adequately protected under the provisions of the Construction Safety Orders.

Subsection (b) specifies the requirements for personal fall arrest systems, and prohibits the use of body belts as part of a personal fall arrest system, except as permitted in subsections (c) and (d). Subparagraph (11)(B) of subsection (b) states that a personal fall arrest system, when stopping a fall, shall be rigged such that an employee can neither free fall more than 4 feet, nor contact any lower level, and where practicable, the anchor end of the lanyard shall be secured at a level not lower than the employee's waist. A revision is proposed to revise the 4 foot free fall distance to 6 feet, consistent with federal counterpart standards contained in 29 CFR 1926.502(d)(16)(iii), and with free fall distances specified elsewhere in Title 8. The proposed amendment is necessary to enable employees to have sufficient mobility in those situations where the anchor end of the lanyard cannot be secured at waist level so that they can perform their work. Otherwise, employees have to crawl in order to maintain the 4-foot maximum free fall distance.

DOCUMENTS RELIED UPON

- Memorandum from the Division of Occupational Safety and Health dated March 23, 2004, to the Occupational Safety and Health Standards Board, Request for New or Change in Existing, Safety Order, (Form 9).

This document is available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

DOCUMENTS INCORPORATED BY REFERENCE

None.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard

does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendment to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.